

Executive Summary – Enforcement Matter – Case No. 43607
BECK'S TEXAS TIRE TERMINAL, INC.
RN103075958
Docket No. 2012-0467-MSW-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MSW

Small Business:

No

Location(s) Where Violation(s) Occurred:

Texas Tire Terminal, 575 North Burleson Boulevard, Burleson, Tarrant County

Type of Operation:

Tire transport and resale facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 13, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$23,026

Amount Deferred for Expedited Settlement: \$4,605

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$536

Total Due to General Revenue: \$17,885

Payment Plan: 35 payments of \$511 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 43607
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RN103075958
Docket No. 2012-0467-MSW-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 5, 2012

Date(s) of NOE(s): February 9, 2012

Violation Information

1. Failed to comply with local codes and ordinances. Specifically, the Respondent did not maintain scrap tires in accordance with the City of Burleson Code of Ordinances Chapter 34 and the City Fire Code Chapter 38 [30 TEX. ADMIN. CODE § 328.52(a)].
2. Failed to sort, mark, classify, and arrange in an organized manner good used tires for sale to consumers [30 TEX. ADMIN. CODE § 328.56(d)(3)].
3. Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers, or in enclosed or lockable containers. Specifically, approximately 17,000 scrap tires were stored on the ground at the Facility [30 TEX. ADMIN. CODE § 328.56(d)(2)].
4. Failed to submit annual reports to the Executive Director ("ED") each calendar year regarding transport of scrap tires. Specifically, the Respondent did not submit a properly completed report for calendar year 2010 [30 TEX. ADMIN. CODE § 328.57(e)].
5. Failed to record all required information on the manifest and maintain the originals of manifests, work orders, invoices or other documentation used to support activities related to the accumulation, handling, and shipment of used or scrap tires. Specifically, two incomplete manifests were observed at the time of the investigation [30 TEX. ADMIN. CODE § 328.58(b) and (f)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures at the Facility:

- a. Submitted report for calendar year 2010, and developed and implemented procedures on February 14, 2012, to ensure that annual reports are properly filled out and submitted to the ED each calendar year; and
- b. Developed and implemented procedures on February 14, 2012 to ensure manifests are accurately completed and maintained.

Technical Requirements:

The Order will require the Respondent to:

Executive Summary – Enforcement Matter – Case No. 43607
BECK'S TEXAS TIRE TERMINAL, INC.
RN103075958
Docket No. 2012-0467-MSW-E

- a. Immediately, cease accepting any additional scrap tires at the Facility until such time as the proper registration is obtained;
- b. Within 30 days:
 - i. Obtain a scrap tire management registration for storage and processing of scrap tires or complete removal of all unauthorized scrap tires from the Facility to an authorized scrap tire storage, processing or disposal facility;
 - ii. Develop and implement procedures to ensure compliance with all applicable codes and local ordinances;
 - iii. Sort, mark, classify and arrange in an organized manner all good used tires for sale to the consumer; and
- b. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Mike Pace, Enforcement Division, Enforcement Team 6, MC R-04, (817) 588-5933; Debra Barber, Enforcement Division, MC 219, (512) 239-0412.
TCEQ SEP Coordinator: N/A
Respondent: Gunther Russell, Vice President, BECK'S TEXAS TIRE TERMINAL, INC., 575 North Burleson Boulevard, Burleson, Texas 76028
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	6-Feb-2012	Screening	14-Feb-2012	EPA Due	
	PCW	9-May-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	BECK'S TEXAS TIRE TERMINAL, INC.		
Reg. Ent. Ref. No.	RN103075958		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	43607	No. of Violations	5
Docket No.	2012-0467-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Mike Pace
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$22,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **5.0%** Enhancement **Subtotals 2, 3, & 7** **\$1,125**

Notes Enhancement for one NOV with same/similar violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$750**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$780
Approx. Cost of Compliance \$10,950
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$22,875**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.7%** **Adjustment** **\$151**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to capture the avoided cost of compliance associated with violation no. 4.

Final Penalty Amount **\$23,026**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$23,026**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$4,605**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY **\$18,421**

Screening Date 14-Feb-2012

Docket No. 2012-0467-MSW-E

PCW

Respondent BECK'S TEXAS TIRE TERMINAL, INC.

Policy Revision 2 (September 2002)

Case ID No. 43607

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103075958

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Pace

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one NOV with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 14-Feb-2012

Docket No. 2012-0467-MSW-E

PCW

Respondent BECK'S TEXAS TIRE TERMINAL, INC.

Policy Revision 2 (September 2002)

Case ID No. 43607

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103075958

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Pace

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 328.52(a)

Violation Description Failed to comply with local codes and ordinances. Specifically, the Respondent did not maintain scrap tires in accordance with the City of Burleson Code of Ordinances Chapter 34 and the City Fire Code Chapter 38.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				50%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 Number of violation days 40

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

One quarterly event is recommended from the January 5, 2012 investigation date to the February 14, 2012 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12

Violation Final Penalty Total \$5,285

This violation Final Assessed Penalty (adjusted for limits) \$5,285

Economic Benefit Worksheet

Respondent BECK'S TEXAS TIRE TERMINAL, INC.
Case ID No. 43607
Req. Ent. Reference No. RN103075958
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$200	15-Jul-2011	14-Sep-2012	1.17	\$12	n/a	\$12

Notes for DELAYED costs

Estimated cost to develop and implement a plan to store tires in accordance with local codes and ordinances. The date required is the initial investigation date and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$12

Screening Date 14-Feb-2012

Docket No. 2012-0467-MSW-E

PCW

Respondent BECK'S TEXAS TIRE TERMINAL, INC.

Policy Revision 2 (September 2002)

Case ID No. 43607

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103075958

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Pace

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 328.56(d)(3)

Violation Description Failed to sort, mark, classify, and arrange in an organized manner good used tires for sale to consumers.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

40 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

Two monthly events are recommended from the January 5, 2012 investigation date to the February 14, 2012 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$29

Violation Final Penalty Total \$5,285

This violation Final Assessed Penalty (adjusted for limits) \$5,285

Economic Benefit Worksheet

Respondent BECK'S TEXAS TIRE TERMINAL, INC.
Case ID No. 43607
Reg. Ent. Reference No. RN103075958
Media Municipal Solid Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	15-Jul-2011	14-Sep-2012	1.17	\$29	n/a	\$29

Notes for DELAYED costs

Estimated cost to sort, mark, classify, and arrange good used tires for sale to the consumer. The date required is the initial investigation date and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$29

Screening Date 14-Feb-2012

Docket No. 2012-0467-MSW-E

PCW

Respondent BECK'S TEXAS TIRE TERMINAL, INC.

Policy Revision 2 (September 2002)

Case ID No. 43607

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103075958

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Pace

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 328.56(d)(2)

Violation Description

Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers, or in enclosed or lockable containers. Specifically, approximately 17,000 scrap tires were stored on the ground at the Facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

40 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

Two monthly events are recommended from the January 5, 2012 investigation date to the February 14, 2012 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$585

Violation Final Penalty Total \$5,285

This violation Final Assessed Penalty (adjusted for limits) \$5,285

Economic Benefit Worksheet

Respondent BECK'S TEXAS TIRE TERMINAL, INC.
Case ID No. 43607
Reg. Ent. Reference No. RN103075958
Media Municipal Solid Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$10,000	15-Jul-2011	14-Sep-2012	1.17	\$585	n/a	\$585
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to register the Facility as a scrap tire storage facility. The date required is the initial investigation date and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$585

Screening Date 14-Feb-2012

Docket No. 2012-0467-MSW-E

PCW

Respondent BECK'S TEXAS TIRE TERMINAL, INC.

Policy Revision 2 (September 2002)

Case ID No. 43607

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103075958

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Pace

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 328.57(e)

Violation Description Failed to submit annual reports to the Executive Director each calendar year regarding transport of scrap tires. Specifically, the Respondent did not submit a properly completed report for calendar year 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

350 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$2,500

One annual event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$250

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent came into compliance on February 14, 2012 after the Notice of Enforcement ("NOE") dated February 9, 2012.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$151

Violation Final Penalty Total \$2,391

This violation Final Assessed Penalty (adjusted for limits) \$2,391

Economic Benefit Worksheet

Respondent BECK'S TEXAS TIRE TERMINAL, INC.
Case ID No. 43607
Reg. Ent. Reference No. RN103075958
Media Municipal Solid Waste
Violation No. 4

Percent Interest 5.0
Years of Depreciation 15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$150	1-Mar-2011	14-Feb-2012	0.96	\$7	\$144	\$151
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Avoided cost to submit annual transporter report for calendar year 2010. The date required is the date the report for calendar year 2010 was due and the final date is the compliance date.

Approx. Cost of Compliance

\$150

TOTAL

\$151

Screening Date 14-Feb-2012

Docket No. 2012-0467-MSW-E

PCW

Respondent BECK'S TEXAS TIRE TERMINAL, INC.

Policy Revision 2 (September 2002)

Case ID No. 43607

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103075958

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Pace

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 328.58(b) and (f)

Violation Description

Failed to record all required information on the manifest and maintain the originals of manifests, work orders, invoices or other documentation used to support activities related to the accumulation, handling, and shipment of used or scrap tires. Specifically, two incomplete manifests were observed at the time of the investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

40 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$5,000

Two single events (one for each manifest) are recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$500

Extraordinary

Before NOV NOV to EDPRP/Settlement Offer

Ordinary

N/A

(mark with x)

Notes

The Respondent came into compliance on February 14, 2012 after the NOE dated February 9, 2012.

Violation Subtotal \$4,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$4,781

This violation Final Assessed Penalty (adjusted for limits) \$4,781

Economic Benefit Worksheet

Respondent BECK'S TEXAS TIRE TERMINAL, INC.
Case ID No. 43607
Req. Ent. Reference No. RN103075958
Media Municipal Solid Waste
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	15-Jul-2011	14-Feb-2012	0.59	\$3	n/a	\$3
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to completely fill out manifests and begin maintaining records of manifests, work orders, and invoices pertaining to tire transportation. The date required is the initial investigation date and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$3

Compliance History Report

Customer/Respondent/Owner-Operator:	CN601612690	BECK'S TEXAS TIRE TERMINAL, INC.	Classification: AVERAGE	Rating: 17.00
Regulated Entity:	RN103075958	Texas Tire Terminal	Classification: AVERAGE	Site Rating: 17.00
ID Number(s):	TIRES	REGISTRATION	25297	
Location:	575 N BURLESON BLVD, BURLESON, TX, 76028			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	February 21, 2012			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	February 21, 2007 to February 21, 2012			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Mike Pace	Phone:	(817) 588-5933	

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 02/03/2012 (976684)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	08/16/2011	(941474)	CN601612690
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 328, SubChapter F 328.52(a)		
Description:	Failure to comply with local codes and ordinances.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 328, SubChapter F 328.56(d)(2)		
	30 TAC Chapter 328, SubChapter F 328.60		
Description:	Failure to prevent the storage of more than 500 used or scrap tires on the ground without authorization from the TCEQ.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 328, SubChapter F 328.56(d)(3)		
Description:	Failure to sort, mark, classify, and arrange in an organized manner good used tires for sale as a commodity.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 328, SubChapter F 328.56(d)(4)		
Description:	Failure to monitor tires for vectors every two weeks and apply adequate vector control measures.		
Self Report?	NO		Classification: Minor

Citation:	30 TAC Chapter 328, SubChapter F 328.57(e)		
Description:	Failure to file an annual report in 2010 and failure to document appropriate information on the annual report.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 328, SubChapter F 328.58(b)		
Description:	Failure to properly document information on the manifests.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 328, SubChapter F 328.58(f)		
Description:	Failure to maintain originals of manifests, work orders, invoices and other documentation and make these records available upon request.		

- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BECK'S TEXAS TIRE
TERMINAL, INC.
RN103075958**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2012-0467-MSW-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding BECK'S TEXAS TIRE TERMINAL, INC. ("the Respondent") under the authority of TEX. HEALTH & SAFETY Code ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a tire transport and resale facility at 575 North Burleson Boulevard in Burleson, Tarrant County, Texas (the "Facility").
2. The Facility involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 14, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Three Thousand Twenty-Six Dollars (\$23,026) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Respondent has paid Five Hundred Thirty-Six Dollars (\$536) of the administrative penalty and Four Thousand Six Hundred Five Dollars (\$4,605) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Seventeen Thousand Eight Hundred Eighty-Five Dollars (\$17,885) of the administrative penalty shall be payable in 35 monthly payments of Five Hundred Eleven Dollars (\$511) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. Submitted report for calendar year 2010, and developed and implemented procedures on February 14, 2012, to ensure that annual reports are properly filled out and submitted to the Executive Director each calendar year; and
 - b. Developed and implemented procedures on February 14, 2012 to ensure manifests are accurately completed and maintained.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to comply with local codes and ordinances, in violation of 30 TEX. ADMIN. CODE § 328.52(a), as documented during an investigation conducted on January 5, 2012. Specifically, the Respondent did not maintain scrap tires in accordance with the City of Burleson Code of Ordinances Chapter 34 and the City Fire Code Chapter 38.
2. Failed to sort, mark, classify, and arrange in an organized manner good used tires for sale to consumers, in violation of 30 TEX. ADMIN. CODE § 328.56(d)(3), as documented during an investigation conducted on January 5, 2012.
3. Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers, or in enclosed or lockable containers, in violation of 30 TEX. ADMIN. CODE § 328.56(d)(2), as documented during an investigation conducted on January 5, 2012. Specifically, approximately 17,000 scrap tires were stored on the ground at the Facility.
4. Failed to submit annual reports to the Executive Director each calendar year regarding transport of scrap tires, in violation of 30 TEX. ADMIN. CODE § 328.57(e), as documented during an investigation conducted on January 5, 2012. Specifically, the Respondent did not submit a properly completed report for calendar year 2010.
5. Failed to record all required information on the manifest and maintain the originals of manifests, work orders, invoices or other documentation used to support activities related to the accumulation, handling, and shipment of used or scrap tires, in violation of 30 TEX. ADMIN. CODE § 328.58(b) and (f), as documented during an investigation conducted on January 5, 2012. Specifically, two incomplete manifests were observed at the time of the investigation.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: BECK'S TEXAS TIRE TERMINAL, INC., Docket No. 2012-0467-MSW-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Agreed Order, cease accepting any additional scrap tires at the Facility until such time as the proper registration is obtained;
- b. Within 30 days after the effective date of this Agreed Order:
 - i. Obtain a scrap tire management registration for storage and processing of scrap tires or complete removal of all unauthorized scrap tires from the Facility to an authorized scrap tire storage, processing or disposal facility;
 - ii. Develop and implement procedures to ensure compliance with all applicable codes and local ordinances, in accordance with 30 TEX. ADMIN. CODE § 328.52;
 - iii. Sort, mark, classify and arrange in an organized manner all good used tires for sale to the consumer, in accordance with 30 TEX. ADMIN. CODE § 328.56; and
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b.iii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Davis J.
For the Executive Director

8/1/12
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Gunther Russell
Signature
VICE PRESIDENT

GUNTHER RUSSELL
Name (Printed or typed)

Authorized Representative of
BECK'S TEXAS TIRE TERMINAL, INC.

MAY 21, 2012
Date

VICE PRESIDENT
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.